

IN THE SUPREME COURT OF MISSISSIPPI

**CHARLES R. PHILLIPS
AND RJK INVESTMENTS, LLC**

APPELLANTS

VS.


NO. 2010-CA-01266

**JOEY P. KELLEY, KEITH D. TEMPLETT,
PIKE COUNTY NATIONAL BANK AND
SAMUEL C. HALL**

APPELLEES

**BRIEF OF APPELLEES
JOEY P. KELLEY AND KEITH D. TEMPLETT**

ORAL ARGUMENT NOT REQUESTED

Wayne Smith (MSB 
151 West Main Street
P O Box 525
Liberty MS 39645
Telephone: 601-657-8994
Fax: 601-657-8987
ATTORNEY FOR APPELLEES
JOEY P. KELLEY AND KEITH D. TEMPLETT

IN THE SUPREME COURT OF MISSISSIPPI

CHARLES R. PHILLIPS
AND RJK INVESTMENTS, LLC

APPELLANTS

VS.

NO. 2010-CA-01266

JOEY P. KELLEY, KEITH D. TEMPLETT,
PIKE COUNTY NATIONAL BANK AND
SAMUEL C. HALL

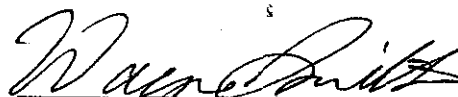
APPELLEES

CERTIFICATE OF INTERESTED PERSONS

The undersigned counsel of record certifies that the following listed persons have an interest in the outcome of this case. These representations are made in order that the justices of the Supreme Court and/or the judges of the Court of Appeals may evaluate possible disqualification or recusal.

1. Charles R. Phillips, Appellant
2. RJK Investments, LLC, Appellant
3. Eduardo A. Flechas, Esq., Counsel for the Appellants
4. Ronald E. Stutzman, Esq., Counsel for the Appellants
5. Joey P. Kelley, Appellee
6. Keith D. Templett, Appellee
7. Pike National Bank (formerly known as Pike County National Bank), Appellee
8. Samuel C. Hall, Appellee
9. Wayne Smith, Esq., Counsel for the Appellees
10. William C. Brabec, Esq., Counsel for the Appellees
11. Lindsey N. Oswalt, Esq., Counsel for the Appellees
12. Derek A. Henderson, United States Bankruptcy Trustee for the Estate of Charles R. Phillips
13. The Honorable Michael M. Taylor, Circuit Court Judge, Pike County, Mississippi

Certified this the 17th day of May, 2011



WAYNE SMITH

Attorney of Record for JOEY P. KELLEY AND
KEITH D. TEMPLETT

TABLE OF CONTENTS

CERTIFICATE OF INTERESTED PERSONS	i
TABLE OF CONTENTS.....	ii
TABLE OF AUTHORITIES.....	iv
STATEMENT OF THE ISSUES.....	1
STATEMENT OF THE CASE.....	2
SUMMARY OF THE ARGUMENT	3
ARGUMENT	3
CONCLUSION.....	3
CERTIFICATE OF SERVICE	4

TABLE OF AUTHORITIES

Mississippi Rules of Appellate Procedure Rule 28.....2, 3

STATEMENT OF THE ISSUES

- I. Plaintiffs' arguments, asserted for the first time on appeal, are procedurally improper.
- II. Derek Henderson, acting in his capacity as Bankruptcy Trustee for the estate of Charles Phillips, had the authority to settle litigation on behalf of Phillips' limited liability company.
- III. This Court lacks jurisdiction to disturb an order of the bankruptcy court.

STATEMENT OF THE CASE

Pursuant to Mississippi Rules of Appellate Procedure Rule 28(i), Joey P. Kelley and Keith D. Templett join, adopt and incorporate by reference herein, Pike National Bank and Samuel Hall, Statement of the Case *in toto*.

SUMMARY OF THE ARGUMENT

Pursuant to Mississippi Rules of Appellate Procedure Rule 28(i), Joey P. Kelley and Keith D. Templett join, adopt and incorporate by reference herein, Pike National Bank and Samuel Hall, Summary of the Argument, *in toto*.

ARGUMENT

Pursuant to Mississippi Rules of Appellate Procedure Rule 28(i), Joey P. Kelley and Keith D. Templett join, adopt and incorporate by reference herein, Pike National Bank and Samuel Hall, Argument, *in toto*.

CONCLUSION

For the foregoing reasons, Joey P. Kelley and Keith D. Templett respectfully request that this Court affirm the order of dismissal entered by the trial court and award attorney's fees to them in the total amount incurred in defense of this appeal.

Respectfully submitted this the 19th day of May 2011,

JOEY P. KELLEY AND KEITH D. TEMPLETT

By: 

WAYNE SMITH (MSB 73 [REDACTED])
151 West Main Street
P O Box 525
Liberty MS 39645
Telephone: 601-657-8994
Fax: 601-657-8987

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused a true and exact copy of the foregoing document to be served via e-mail and first class U.S. mail, postage prepaid to the following:

Eduardo A. Flechas
Flechas & Associates, P. A.
318 South State Street
Jackson, MS 39201

Ronald Stutzman, Jr.
The Stutzman Law Firm, PLLC
P.O. Box 12368
Jackson, MS 39236

William C. Brabec
Lindsey N. Oswalt
Adams and Reese LLP
1018 Highland Colony Parkway, Suite 800
Ridgeland, MS 39157

Derek A. Henderson, Trustee
United States Bankruptcy Court
111 E. Capitol Street, Suite 455
Jackson, MS 39201

Honorable Michael M. Taylor
Circuit Judge
116 West Cherokee Street
Post Office Drawer 1350
Brookhaven, MS 39602-1350

This the 19th day of May, 2011.


Wayne Smith